IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8768 of 1995

For Approval and Signature:

HON'BLE MR. JUSTICE ANANT S DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the concerned Magistrate/Magistrates,Judge/Judges,Tribunal/Tribunals? : NO

K K SHAH

Versus

UCO BANK

Appearance:

1. Special Civil Application No. 8768 of 1995

MR AJ SHASTRI for Petitioner No. 1

NANAVATI & NANAVATI for Respondent No. 1

..... for Respondent No. 2,4

NOTICE SERVED for Respondent No. 3

CORAM : HON'BLE MR. JUSTICE ANANT S DAVE

Date of decision: 23/12/2004

ORAL JUDGEMENT

1. By way of the present writ petition under Article 226 of the Constitution of India, the petitioner has claimed the benefits of pension, pursuant to the pension scheme implemented by the respondent-UCO Bank. According to the petitioner, his legal right to receive the benefit of pensionary scheme is denied by the respondent-Bank and the said action is unreasonable, arbitrary and, therefore, requires to be redressed by this Court in exercise of its powers under Article 226 of the

Constitution of India.

2. According to the petitioner, he had joined the service of the respondent-Bank in the year 1956 and, on 12th March 1986, he tendered his resignation due to family circumstances and the respondent-Bank accepted the said resignation on 14th May 1986.

3. According to the petitioner, the respondent-Bank had adopted Pension Regulations of 1993 with effect from 1st January 1986 and an option was provided to the existing employees as well as the employees who retired on or after 1st January 1986. The respondent-Bank had informed the petitioner to exercise option on 9th July 1994 and the petitioner was also informed to be medically examined and, therefore, the petitioner had sent medical papers to the respondent-Bank as well as to the Head Office of the respondent-Bank. Subsequently, the petitioner was informed that he was not eligible to receive pensionary benefit, and the said action of the respondent-Bank is under challenge in the present petition.

4. The main prayer of the petitioner is to quash and set aside the decision of the respondent-Bank dated 17th April 1995 and also communication dated 28th February 1995, by which the petitioner was denied the benefit of the pension scheme, and the petitioner has further prayed that it may be declared that the petitioner is entitled to pension scheme implemented under UCO Bank Employees (Pension) Regulations, 1993, and to grant other consequential benefits.

5. The learned advocate for the respondent-Bank has drawn attention of this Court to the affidavit-in-reply filed by the Zonal Manager of the respondent-Bank, and more particularly paragraphs 3.3 and 3.4, whereby, the relevant provisions of the scheme framed by the respondent-Bank and the Regulations therein are reproduced.

5.1 According to the learned advocate for the respondent-Bank, in view of the Regulations, the petitioner is not entitled to the benefits of the scheme framed by the respondent-Bank and the very subject matter is finally now decided by the Honourable Supreme Court in the case of UCO Bank and others vs. Sanwar Mal, reported in 2004 II LLJ 490, wherein, the Honourable Supreme Court dealt with Section 19(2) of the UCO Bank (Employees') Pension Regulations, 1995, and Regulation 22. The Honourable Supreme Court has, after taking into

consideration various provisions, distinguished resignation from retirement and it is held that the aforesaid provisions, namely, Pension Regulations, disqualify the employee, who resigned, from getting the benefits of pension and such disqualification provided in the Rules cannot be said to be arbitrary or unreasonable, and the classification was held to be in consonance with Article 14 of the Constitution of India.

6. In the case of Reserve Bank of India and another vs. Cecil Dennis Solomon and another, reported in 2004 (2) GCD 1319, the Apex Court held that the resignation cannot be equated with voluntary retirement and the employee giving resignation from service is not entitled to pension.

7. With regard to the proposition of law laid down by the Apex court in the abovereferred judgments, no distinguishing feature is carved out by the learned advocate for the petitioner and he has fairly accepted the ratio laid down by the Apex court in the aforesaid judgments and, therefore, the subject matter of the present petition does not require any further adjudication.

8. In view of the judgments of the Apex in the case of UCO Bank and others vs. Sanwar Mal, reported in 2004 II LLJ 490, and in the case of Reserve Bank of India and another vs. Cecil Dennis Solomon and another, reported in 2004 (2) GCD 1319, which completely answer the contentions raised by the petitioners in the present petition, this petition is required to be rejected. The learned advocate for the petitioner, in view of the ratio laid down by the Apex Court in the above referred judgments, does not press for a reasoned order dealing with each and every contention elaborately.

9 In the result, the petition is rejected. Rule is discharged with no order as to costs.

(Anant S. Dave, J.)
(swamy)